IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 753 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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RAMNIKLAL VALJIBHAI PARMAR - Appellant(s)
Versus
DISTRICT PANCHAYAT & 2 - Defendant(s)

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Appearance :
MR KG SHETH for Appellant(s) : 1,
MR JD AJMERA for Defendant(s) : 1 - 2.
NOTICE SERVED for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 28/07/2006

ORAL JUDGMENT

1.0 By way of this appeal, the appellant has challenged the judgment and award of the Motor Accident Claims Tribunal, Amreli passed in M.A.C.P. No.116 of 1982 dated 16th August, 1983.

2.0 The brief facts of the case are that on 02.02.1980, when the appellant along with his wife Rekha was traveling in a jeep car driven by opponent No.3, the said jeep car dashed with a

tree standing by the side of the road. On account of the accident in question wife of the present appellant lost her life. Therefore, he filed a petition claiming an amount of Rs.50,000/- by way of compensation.

2.1 In the said petition, after hearing the parties, the Tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Heard. It is not in dispute that wife of the appellant was traveling in the jeep involved in the accident in question driven by opponent No.3. Opponent No.3 in his deposition (Exh.31) has stated that at the relevant time he was driving the jeep car in which the deceased was traveling and when they were proceeding towards village Gigasan, a truck came from the opposite direction and hit the jeep car on account of which the accident in question took place. He has denied that he was driving the vehicle in question with excessive speed and in negligent

manner. It may be noted that panchas were not examined to clarify the position stated in the 'Panchnama' (Exh.22). There is no direct evidence to show that opponent No.3 drove the vehicle in question in rash and negligent manner. Hence, when opponent No.3 was examined as a witness of the appellant and he dose not support the case of the appellant, it cannot be said that he was driving the vehicle in question in rash and negligent manner, and hence, it cannot be said that the wife of the appellant expired on account of rash and negligent on the part of the opponent No.3. Even if it is assumed that on account of the negligence on the part of the said truck driver accident in question took place, said truck driver and owner are not made parties. Hence, the appellant cannot be said to be entitled to claim compensation.

3.1 In above view of the matter, I am in complete agreement with the reasoning given and the findings arrived at by the Tribunal, and

therefore, find no reason to interfere in this appeal.

4.0 In the result, the appeal stands dismissed. No order as to costs.

(K.S. Jhaveri,J.

Umesh/